

**REGULAR CITY COUNCIL MEETING
FRISCO MUNICIPAL COMPLEX
8750 MCKINNEY ROAD
COUNCIL CHAMBERS
FRISCO, TEXAS 75034
5:30 P.M.**

May 7, 2003

MINUTES

1. Call to Order

Mayor Simpson the Meeting to Order at 5:30 p.m. and announced a quorum was present. The meeting was duly posted and called to order in a timely manner.

Those present were:

Mayor Simpson
Mayor Pro-Tem Reveal
Deputy Mayor Pro-Tem Maso
Council member Allen
Council member Lafata
Council member West

Staff present were:

City Manager George Purefoy
Deputy City Manager Henry Hill
Assistant City Manager Scott Young
Assistant City Manager Jason Gray
City Secretary Nan Parker
Attorney for the City Rebecca Brewer (left the meeting at 8:05 p.m.)
Attorney for the City Richard Abernathy (entered the meeting at 7:55 p.m.)
City Engineer Frank Jaromin
Director of Planning & Development Services John Lettelleir

2. Recess into Closed Session in compliance with Section 551.001 et. seq. Texas Government Code

Council member Allen moved to recess into Closed Session at 5:30 p.m. Council member West seconded the Motion. Motion carried. Vote: 5-0.

Mayor Simpson announced the council was in closed session at 5:35 p.m. as authorized by:

- a) Section 551.087. Deliberation regarding commercial or financial information that the City has received from a business prospect and to deliberate the offer or other incentives to a business prospect.
 - b) Section 551.072. To deliberate the purchase, exchange, lease or value of real property located:
 - i. south of Eldorado Parkway, north of Stonebrook Parkway, east of Teel Parkway, and west of SH 289.
 - c) Section 551.071. Consultation between the City Attorney and City Council:
 - i. where the duty of the City Attorney to City Council pursuant to the Code of Professional Responsibilities of the State Bar of Texas clearly conflicts with the Open Meetings Act regarding negotiations with neighboring cities.
 - d) Section 551.071. Consultation with attorney concerning pending litigation in:
 - i. Cause No. 2003-60101-393, (393rd District Court in Denton County, Texas) Hari and Veda Vallurupalli v. City of Frisco, Texas and the City of Frisco Board of Adjustment.
- Section 551.074. Evaluation of City Manager

3. Reconvene into Regular Session and take any action necessary as a result of the Closed Session.

Council member Allen to reconvene into Regular Session at 6:45 p.m. Mayor Pro-Tem Reveal seconded the Motion. Motion carried. Vote: 5-0.

4. Proclamations.

Mayor Simpson presented Mike McCall (Frisco RoughRiders) with a picture that was taken on "Opening Night of the Dr. Pepper/7-Up Stadium. Mr. McCall presented Jerseys from the RoughRiders.

5. Invocation.

Pastor John McKinzie of Hope Fellowship Church offered the prayer.

6. Pledge of Allegiance.

April Joyner led the Pledge of Allegiance.

7. Adoption of Ordinance 03-05-31 determining the compensation for the Mayor and Members of the City Council.

Mayor Pro-Tem Reveal moved to adopt **Ordinance No. 03-05-31** therein establishing compensation for the Mayor and Members of the City Council. Council member Lafata seconded the Motion. Voting Aye: Mayor Pro-Tem Reveal, Deputy Mayor Pro-Tem Maso, Council member Lafata and Council member West. Voting Nay: Council member Allen. Motion carried. Vote: 4-1.

8. Adoption of Ordinance 03-05-32 canvassing the May 3, 2003 Election Returns.

City Secretary Nan Parker presented the results of the canvass as certified by Sharon Rowe, Elections Administrator of the Collin County. Ms. Parker informed the council the city had received a Petition for a (manual) Recount of the election returns and therefore the issuance of the certificate of election and oath of office could not be issued to the winner of Place 1 until after the recount.

Following discussion, Mayor Pro-Tem Reveal moved to adopt **Ordinance No. 03-05-32** therein canvassing the Election Returns of the May 3, 2003 Election. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

9. Administer the Oath of Office to newly elected Council Members

Mayor Simpson issued the Certificate of Election to Council member West and Council Member Joyner.

Following the Issuance of Certificate of Election the Mayor issued the Oath of Office to the newly elected Council Member Joy West and Jim Joyner. Mayor Pro-Tem Reveal stepped down and Council member Joyner joined the council at the Dias.

10. The Council, Staff and Attendees recessed for a reception honoring outgoing City Council members, Tracie Reveal and Steve Nichols.

Deputy Mayor Pro-Tem Maso moved to recess for a brief recess for a reception honoring Tracie Reveal and Steve Nichols for their dedication and service to the City of Frisco as council members. Council member Allen seconded the Motion. Motion carried. Vote: 4-0.

11. Drawing of lots to determine length of terms for City Council Places 1, 3, and 5.

The council postponed action until after the recount of the May 3, 2003 Election returns.

12. Consider and act upon the election of Mayor Pro Tem

The council postponed action until after the recount of the May 3, 2003 Election returns.

13. Appointment of Deputy Mayor Pro Tem.

The council postponed action until after the recount of the May 3, 2003 Election returns.

14. Adoption of Resolution 03-05-91R Ordering a Runoff Election for Saturday, May 31, 2003 (if required).

Deputy Mayor Pro-Tem Maso moved to adopt **Resolution No. 03-05-91R** therein ordering a Runoff Election for Saturday, May 31, 2003, if required. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

15 Citizen Input. (To begin approximately at 7:30 p.m.)

There was no one present to address the council during citizen input.

16. Reports

A. Traffic Updates on SH 121 and Legacy, and Custer Road and Main Street (Traffic Engineer)

Brian Moen addressed the council regarding traffic updates on SH 121 and Legacy. He updated the council on the signal malfunction at SH 121 DNT on Friday, May 2, 2003. He stated that they would continue to watch the signal for malfunctions.

B. Asset Management Quarterly Update

No action was taken.

C. Parks and Recreation Monthly Report

Director of Parks and Recreation Rick Wieland presented an update on the Parks and Recreation program for the months of May and June. Discussion only, no formal action was taken.

D. Planning & Development Monthly Report

Director of Planning & Development John Lettelleir was present to address the Council regarding the Green Building Program – Energy Fair to be done in conjunction with Police/Fire Department during National Night Out in August. He stated that the population estimates for this month was 59,950. Deputy Mayor Pro-Tem Maso asked if the City has a plan in place for a “contract for employment for the employees that receive certificates via tuition payment” for employees that receive certification and then leave without any length of service to the City. He stated that Human Resources is reviewing. Discussion only, no formal action was taken.

E. Engineering Monthly Report

City Engineer Frank Jaromin was present to address the council regarding the May Engineer Report. He stated that the intersections of Lebanon of Hillcrest are under construction and on schedule. Discussion only, no formal action was taken.

F. Project Status Tracking Reports

Discussion only, no formal action was taken.

17. Consent Agenda

The Consent Agenda was considered for approval. Council member West moved to remove Item A for separate discussion. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

Deputy Mayor Pro-Tem Maso moved to approve the consent agenda, excluding Item A. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

A) Approval of minutes of the April 15, 2003 Regular City Council Meeting

Council member West requested that additional language be added to the minutes as follows, “perception of conflict of interest” on the item in which Council member West stepped down. Following discussion, Council member West moved to approve the minutes. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

- B) Adoption of **Resolution No. 03-05-92R** therein authorizing the City Manager to execute a Professional Services Agreement by and between the City of Frisco and RWL Benefits, Inc. in the amount of \$25,350.00 to provide Employee Benefits Consulting Services. (Human Resources)
- C) Adoption of **Resolution No. 03-05-93R** therein authorizing the City Manager to execute an Agreement by and between the City of Frisco and D.R. Horton – Texas, Ltd. regarding the Impact and Park Fees for the Frisco Heights Development. (Planning)
- D) Approval of Change Order Number 4 in the amount of \$97,151.00 for the Eldorado/Custer water line for the Construction of a Retaining Wall. (Engineering)
- E) Adoption of **Resolution No. 03-05-94R** therein authorizing the City Manager to enter into a Reimbursement Agreement by and between the City of Frisco and CoServ Electric in the amount of \$75,000.00 for utility relocations along Coit Road. (Engineering)
- F) Adoption of **Resolution No. 03-05-95R** therein authorizing the City Manager to execute a Consulting Services Agreement by and between the City of Frisco and HBC – Terracon in the amount of \$19,867.30 for “Construction Materials Testing and Inspection” Services for construction of the Frisco Square – Senior Center. (City Manager’s Office/BRJ)
- G) Adoption of **Resolution No. 03-05-96R** therein authorizing the City Manager to enter into a Consulting Services Agreement by and between the City of Frisco and T.A.B. – Co. in the amount of \$2,760.00 for independent HVAC Test and Balance Services for the Frisco Square – Senior Center. (City Manager’s Office/BRJ)
- H) Adoption of **Resolution No. 03-05-97R** therein authorizing the City Manager to enter into an Agreement by and between the City of Frisco and HHPA, L.L.P. for Architectural Services for City Hall and Library. (City Manager’s Office/ SY)
- I) Adoption of **Resolution No. 03-05-98R** therein authorizing the City Manager to enter into an Agreement by and between the City of Frisco and Vintage Music LLC f/s/o LMNT for the July 4, 2003 Celebration. (Communications)
- J) Adoption of **Resolution No. 03-05-99R** therein supporting the Coalition for Appropriate Sales Tax Law Enactment. (City Secretary)

END OF CONSENT AGENDA

18. Legislative Agenda

The Legislative Agenda was considered for approval. Council member West moved to remove Item D for separate discussion. Deputy Mayor Pro-Tem Maso seconded the Motion. Motion carried. Vote: 5-0.

Council member Allen moved to approve to approve the Legislative Agenda, excluding Item 18D. Council member Joyner seconded the Motion. Motion carried. Vote: 5-0.

- A) Adoption of **Ordinance No. 03-05-33** therein annexing 174.2+ acres on the east side of Legacy Drive, 445+/- feet north of Town & Country Blvd, a.k.a. the Stonebriar Creek subdivision. Neighborhood #34. Case IA2003-0001 (Planning & Development Department)
- B) Adoption of **Ordinance No. 03-05-34** therein annexing 2.0+ acres on the south side of C.R. 112 (future Lebanon Road), 600+/- feet east of Independence Parkway. Owned by Redi-Mix, L.P. Neighborhood #27. Case IA2003-0008 (Planning & Development Department)
- C) Adoption of **Ordinance No. 03-05-35** therein rezoning 14.7± acres on the east side of Preston Road, 2,590± feet south of U.S. Highway 380 from Agricultural to Office-1. Neighborhood #2. Applicant(s): Tom and Ruth Swing. Zoning Case Z02-0026 (Planning & Development)
- D) Adoption of **Ordinance No. 03-05-36** therein amending Comprehensive Zoning Ordinance 00-11-01 regarding the Specific Use Permit requirements for Independent School Districts. (Planning & Development)

Council member Lafata moved to approve Item D. Council member Allen seconded the Motion. Motion carried. Vote: 4-1. Council member West abstained from Item D. due to the potential perception of conflict of interest, the abstention resulted in a negative vote.

END OF LEGISLATIVE AGENDA

Regular Agenda:

19. Approval of Contract with Collin County Elections Administrator to conduct a Runoff Election (if required) and the adoption of a Resolution authorizing the City Manager to execute the Agreement. (City Secretary)

Council member Allen moved to adopt **Resolution No. 03-05-100R** therein approving a Contract with Collin County Elections Administrator for a Runoff Election on May 31, 2003, if required, and authorizing the City Manager to execute the agreement. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

20. Adoption of Resolution No. 03-05-101R ordering a Public Hearing to consider levying assessments against the specially benefited property within the Panther Creek Estates Public Improvement District. (Administrative Services)

Director of Administrative Services Nell Lange and Attorney Leroy Grawunder were present to address the Council regarding the need to conduct a public hearing on May 20, 2003 for levying assessments for the Public Improvement District No. 1.

Following discussion, Council member Allen moved to adopt **Resolution No. 03-05-101R** therein calling a public hearing to consider levying assessments against the specially benefited property within the Panther Creek Estates Public Improvement District No. 1. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

21. Approval of a land purchase of 2,500± square feet for right-of-way at the intersection of North County Road and Maple Street in the amount of \$21,055.08. (Engineering)

Discussion regarding the purchase of 2500 square feet, more or less, of land to be used for right-of-way at the intersection of North County Road and Maple Street. Following discussion, Council member Lafata moved to adopt **Resolution No. 03-05-102R** therein approving a land purchase of 2500 square feet, more or less, for right-of-way. Council member West seconded the Motion. Motion carried. Vote: 5-0.

22. Adoption of Resolution No. 03-05-103R authorizing the City Manager to execute an Interlocal Agreement by and between the City of Frisco and the City of McKinney for design and construction of FM 2478 and FM 3537. (City Manager's Office/SY)

Council member Allen moved to adopt **Resolution No. 03-05-103R** therein authorizing the City Manager to execute an Interlocal Agreement by and between the City of Frisco and the City of McKinney for design and construction of FM 2478 and FM 3537. Council member Joyner seconded the Motion. Motion carried. Vote: 5-0.

23. Consider and act upon a declared it a necessity and public convenience for the taking, by acquisition or condemnation, of the property owned by Thomas Dean Vogt and located in the Frisco-Original Donation, Block 103, Lot 1-ALL, ACRES 1.6920, City of Frisco, Collin County, Texas, for Heritage Park and authorizing the law firm of Abernathy, Roeder, Boyd & Joplin, P.C. to do all things to effectuate the acquisition by purchase or condemnation. (City Manager's Office/SY)

Assistant City Manager Scott Young informed the council that Items 23. – 28 were for the council to review, determine and declare the necessity and public convenience for the taking, by acquisition or condemnation of property for Heritage Park. Mr. Young and Mr. Purefoy stated that the city staff had worked with the property owners (Thomas Vogt, Ty O'Neal, Geoenergy I Resources, Inc., Joe and Dana Ortega) for approximately two years to purchase the property.

Bob Warren, speaking for The Heritage Association addressed the council and requested the City not spend excessive money on the moving of the Millwood Wood Shop.

Dr. Erwin Pink stated The Heritage Association has a membership of over 100 individuals. He stated that membership supports the Council one hundred percent and asked that they council proceed forward with the condemnation and acquisition of the land for The Heritage Park.

Adell Garza addressed the council and voiced concerns the council would eventually take all of the properties in the Old Donation portion of the downtown areas north/south of Main from the railroad tracks to Fourth Street.

Dana Ortega addressed the council and voiced numerous reasons why the city should not condemn her property. She stated that the property was involved in court, regarding her divorce. Ms. Dana Ortega made many confusing allegations against the city and city staff.

Following discussion and the declaration of the necessity and public convenience for taking of the property, Council member Allen moved to authorize the law firm of Abernathy, Roeder & Joplin, P.C. to proceed with the necessary requirements to purchase or condemn the properties as referenced. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

24. The Council declared it a necessity and public convenience for the taking, by acquisition or condemnation, of the property owned by William Tyson O'Neal and located in the Frisco – Original Donation, Block 102, Lot 3B, City of Frisco, Collin County, Texas, for Heritage Park and authorized

the law firm of Abernathy, Roeder, Boyd & Joplin, P.C. to do all things to effectuate the acquisition by purchase or condemnation. (City Manager's Office/SY)

Following discussion and the declaration of the necessity and public convenience for taking of the property, Council member Joyner moved to authorize the law firm of Abernathy, Roeder & Joplin, P.C. to proceed with the necessary requirements to purchase or condemn the properties as referenced. Council member West seconded the Motion. Motion carried. Vote: 5-0.

25. The Council declared it a necessity and public convenience for the taking, by acquisition or condemnation, of the property owned by William Tyson O'Neal and located in the Frisco – Original Donation, Block 102, Lot 3D, City of Frisco, Collin County, Texas, for Heritage Park and authorized the law firm of Abernathy, Roeder, Boyd & Joplin, P.C. to do all things to effectuate the acquisition by purchase or condemnation. (City Manager's Office/SY)

Following discussion and the declaration of the necessity and public convenience for taking of the property, Council member Joyner moved to authorize the law firm of Abernathy, Roeder & Joplin, P.C. to proceed with the necessary requirements to purchase or condemn the properties as referenced. Council member West seconded the Motion. Motion carried. Vote: 5-0.

26. The Council declared it a necessity and public convenience for the taking, by acquisition or condemnation, of the property owned by Geoenergy I Resources, Inc. and located in the Frisco-Original Donation, Block 102, Lot 3C, City of Frisco, Collin County, Texas, for Heritage Park and authorized the law firm of Abernathy, Roeder, Boyd & Joplin, P.C. to do all things to effectuate the acquisition by purchase or condemnation. (City Manager's Office/SY)

Following discussion and the declaration of the necessity and public convenience for taking of the property, Council member Allen moved to authorize the law firm of Abernathy, Roeder & Joplin, P.C. to proceed with the necessary requirements to purchase or condemn the properties as referenced. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

27. The Council declared it a necessity and public convenience for the taking, by acquisition or condemnation, of the property owned by Joe and Dana Ortega and located in the Frisco-Original Donation, Block 102, Lot 3E, City of Frisco, Collin County, Texas, for Heritage Park and authorized the law firm of Abernathy, Roeder, Boyd & Joplin, P.C. to do all things to effectuate the acquisition by purchase or condemnation. (City Manager's Office/SY)

Following discussion and the declaration of the necessity and public convenience for taking of the property, Deputy Mayor Pro-Tem Maso moved to authorize the law firm of Abernathy, Roeder & Joplin, P.C. to proceed with the necessary requirements to purchase or condemn the properties as referenced. Council member Lafata seconded the Motion. Motion carried. Vote: 5-0.

28. The Council declared it a necessity and public convenience for the taking, by acquisition or condemnation, of the property owned by Joe and Dana Ortega and located in the Frisco-Original Donation, Block 102, Lot 3A, Frisco, Texas, Collin County, Texas, for Heritage Park and authorized the law firm of Abernathy, Roeder, Boyd & Joplin, P.C. to do all things to effectuate the acquisition by purchase or condemnation. (City Manager's Office/SY)

Following discussion and the declaration of the necessity and public convenience for taking of the property, Council member Lafata moved to authorize the law firm of Abernathy, Roeder & Joplin, P.C. to proceed with the necessary requirements to purchase or condemn the properties as referenced. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

29. Adoption of Resolution No. 03-05-104R authorizing the City Manager to execute an Impact Fee Agreement by and between the City of Frisco and Frisco Legacy, Ltd. (City Manager's Office/SY)

Assistant City Manager Scott Young requested the item be **tabled** to the May 20, 2003 Meeting. Council member Lafata moved to **table** the item. Council member Allen seconded the Motion. Motion carried. Vote: 5-0.

30. Governance Agenda

Governance Reports, discussion only, no formal action was taken.

31. Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the City Council to the Planning & Development Department, pursuant to Article IV, Section 1.07(C) of the Comprehensive Zoning Ordinance and/or Section 4.05 of the Subdivision Regulation Ordinance, regarding action taken by the Planning & Zoning Commission on any site plan or plat. Any written notice of appeal must be submitted to the Planning & Development Department.

Director of Planning and Development John Lettelleir informed the council there had been nineteen plats approved over the past month. The council chose not to appeal any of the action taken by the Planning and Development Department.

32. City Council discussion with City Staff concerning any actions required by City Staff as a result of any item on tonight's agenda.

Discussion only, no formal action was taken.

33. Discussion on Governance Monitoring of present City Council Meeting.

Mayor Simpson monitored the present meeting. Discussion only, no formal action was taken.

34. Adjourn.

There being no further business, the Meeting was adjourned at 9:21 p.m.

E. Michael Simpson, Mayor

ATTEST:

Nan Parker, City Secretary